

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RICARDO GUTIERREZ and SHANNON,)
ROSS, individually and on behalf of all others)
similarly situated,)
)
Plaintiffs,)
)
v.) Case No. 1:21-cv-05702
)
WEMAGINE.AI LLP,)
)
Defendant.)

**DEFENDANT'S MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED CLASS
ACTION COMPLAINT PURSUANT TO FED. R. CIV. P. 12(B)(2) AND 12(B)(6)**

Defendant Wemagine.AI LLP, by and through its undersigned counsel, Mag Mile Law, LLC, respectfully moves this Court pursuant to Federal Rule of Civil Procedure 12(b)(2) and 12(b)(6) for an Order dismissing the First Amended Complaint of Plaintiffs Ricardo Gutierrez and Shannon Ross against the Defendant, with prejudice, on the grounds of insufficient personal jurisdiction and failure to state a claim upon which relief can be granted. In support of this Motion, Defendant states as follows:

1. On September 23, 2021, Plaintiff filed a two-count Complaint in the Circuit Court of Cook County, Illinois, Chancery Division, Case No. 2021 CH 04873, against the Defendant.
2. Defendant removed the matter to this Court on October 26, 2021. (*See* Doc. No. 3).
3. On January 27, 2022, the Court granted Defendant's Motion to Dismiss Plaintiff Ricardo Gutierrez's Class Action Complaint for lack of personal jurisdiction. (*See* Doc. No. 19).
4. On February 15, 2022, the Court granted Plaintiffs Gutierrez and Shannon Ross (newly added) leave to file their First Amended Class Action Complaint. (*See* Doc. No. 22).

5. For the reasons set forth in the accompanying Memorandum of Law and Declaration of Wilson Tjoa in support hereof, the Court should dismiss Plaintiffs' claims against Defendant with prejudice for lack of personal jurisdiction under Fed. R. Civ. P. 12(b)(2) and failure to state a claim under Fed. R. Civ. P. 12(b)(6).

6. Counsel for Defendant conferred with counsel for the Plaintiffs and the parties agreed on the briefing schedule attached hereto as Exhibit "A."

WHEREFORE, Defendant Wemagine.AI LLP respectfully requests that the Court grant its Motion and dismiss Plaintiffs' First Amended Class Action Complaint with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(2) and 12(b)(6).

Dated: March 8, 2022

Respectfully submitted,

WEMAGINE.AI, LLP

By: /s/ Mario M. Iveljic
One of its Attorneys

Mario M. Iveljic (ARDC 6280267)
Steven P. Mikuzis (ARDC 6279289)
MAG MILE LAW, LLC
535 N. Michigan Ave., Suite 200
Chicago, IL 60611
(708) 576-1624
mario@magmilelaw.com
steven@magmilelaw.com

CERTIFICATE OF SERVICE

I, Mario M. Iveljic, an attorney, hereby certify that on this 8th day of March, 2022, I served a true and correct copy of the foregoing Motion to Dismiss Plaintiffs' First Amended Class Action Complaint on counsel of record by electronic means via the Electronic Case Filing (ECF) system.

/s/ Mario M. Iveljic
Mario M. Iveljic